

6000 SCHOOL BUILDINGS AND SITES

September 19, 2000

6100 BUILDING PROJECTS ELIGIBLE FOR STATE AID

6110 Statutory Authority: 16 V.S.A. Chapter 123

6111 Policy and Purpose

- (a) It is the policy of the State of Vermont to encourage renovation of, additions to, or construction of school facilities where necessary to meet the educational needs of Vermont pupils. Any such projects should be developed with standards of quality for public schools set forth in 16 V.S.A. §165 in mind and in a cost and energy efficient manner. Further it is the policy of the State Board to encourage the use of existing infrastructure to meet the needs of Vermont students in accordance with the State Board policy on historic preservation. Joint construction projects between two or more school districts and consolidation of buildings within a district where feasible and educationally appropriate are also encouraged. The State Board, in favor of local objectives to better the learning environment, shall liberally construe these rules. These rules are intended to establish the extent to which a proposed project is eligible to receive state construction aid, but shall in no way limit the amount of construction that a local district may authorize or expend on a project.
- (b) It is the purpose of these rules to provide the procedures and standards for school districts applying for school construction aid. In order for the State Board of Education to approve a construction aid project, it must comply with the applicable provisions of Rules 6100 et seq. Approval of the project may be for the whole of the project or only for such component parts as found by the State Board of Education to meet the requirements set forth herein.

6112 Definitions

“Commissioner” shall mean the Commissioner of Education, or his or her designee unless the context clearly requires otherwise.

"Construction aid project" means construction of a school building, renovation or alteration of an existing school building or purchase of a school building for which a school board may seek a grant of financial aid pursuant to 16 V.S.A. §3448. A construction aid project may include the purchase and installation of relocatable units, provided such units meet the minimum standards applicable to permanently constructed educational spaces.

“School”, “school district”, or “school board” where the context allows shall in addition to their ordinary meaning include an independent school or board of trustees as identified in 16 V.S.A. §3447.

6113 School Building Information

The Commissioner from time to time shall publish information to help school officials maintain school buildings in safe and sound condition; achieve effective design, flexibility and economy in a construction aid project; and secure expeditious approval of grants for construction aid projects.

6114 Requirements Applicable To All Projects

6114.1 Regulations of Other Agencies

- (a) These rules are in addition to the requirements of other state agencies with respect to school construction. In order to be eligible for construction aid, school building projects must meet standards that apply to school construction adopted by the Department of Labor and Industry, the Agency of Natural Resources, the Division for Historic Preservation, the Department of Health, the Department of Agriculture, the Agency of Transportation, and any standards of other state or federal agencies and local or regional planning authorities.
- (b) The Commissioner shall, subject to the consent of the agencies involved, coordinate the preliminary approval processes for public schools for all agencies of state government with responsibilities relating to school buildings and sites. However, the school district shall be responsible for securing all necessary permits or approvals from these agencies.

6114.2 Site Requirements

Before final approval the school board shall request and the Commissioner shall grant site approval if the site meets the approval of other applicable agencies and is adequate for: 1) the educational programs the school board plans to conduct now and in the future as reflected in the approved educational specifications; 2) the anticipated community uses of the school facilities; 3) the space needed for the planned construction and its necessary service areas; and 4) the growth potential of the district. All construction

and site development to be included in a construction aid project must occur on land to which the school district has clear title in fee simple or a permanent deeded easement or right-of-way. Land not owned by the district but convenient to the site on which a construction aid project will occur may be considered as part of the school site when the Commissioner finds that the land is suitable for daily school use and the school has permanent unrestricted access.

Any site considered by a school board shall have the capacity for a water supply system and sewage disposal system sufficient to meet the needs for the planned occupancy of the building as determined by the approved educational specifications.

The school board shall evaluate air quality issues and environmental hazards when selecting a site for a new school or addition so as to avoid or minimize the potential for contaminants and submit the analysis with the application for construction aid.

6114.3 Accessibility Standards

School construction shall comply with all state and federal laws regarding access rights to public buildings for persons with disabilities. These include the requirements of 21 V.S.A. §271-277, Section 504 of the Rehabilitation Act of 1973 and any regulations promulgated in connection therewith.

6114.4 Bond Amortization

School boards issuing bonds for capital construction shall repay the principal in not more than twenty years except as provided by 16 VSA §777.

6115 Application Procedures for Construction Aid

6115.1 The application procedures for construction aid shall consist of two parts: the preliminary application and a final application. Both applications shall be made on forms prescribed by the Commissioner.

6115.2 Each school district which has voted funds or issued bonds for the total cost to either construct or purchase a new school, or make extensive additions or alterations to its existing school plant to adequately house its pupils, or to conserve energy, can make application in writing to the State Board of Education for construction aid.

6116 Preliminary Application

- 6116.1 The Commissioner may approve a preliminary application if he or she finds that the project or any part thereof fulfills a need which cannot reasonably be met by another means and that is occasioned by:
- (a) facilities which are inadequate to provide programs required by state or federal rule or regulation;
 - (b) deterioration of existing buildings;
 - (c) conditions which are unsafe or threaten the health of students or employees;
 - (d) excessive energy use or cost resulting from the design characteristics of the building.
- 6116.2 A school board shall supply evidence with its preliminary application that it has conducted a facility analysis consistent with these rules and considered the availability of classrooms or other accommodations in neighboring schools as a reasonable means of meeting the urgent need on which its application is based.

6117 Facility Analysis

A facility analysis means a complete analysis of the existing facility. The analysis shall identify the areas of deficiency consistent with the criteria listed in 16 V.S.A. §3448(a)(2)(A). The analysis shall include, as appropriate for the project, the following information:

- (a) demographic data and enrollment projections,
- (b) the current floor plan and useable square footage,
- (c) economic impact on the community, condition of the infrastructure of the existing building, including existing health and safety conditions, and
- (d) history of maintenance on the existing facility.

6118 Determining a Priority of Projects

Upon receipt of a preliminary application, the Commissioner will evaluate and rate the degree of need for construction in accordance with the *System for Rating Proposed School Construction Projects* adopted by the State Board of Education.

6119 Rating Eligible Projects:

- 6119.1 The State Board shall adopt and from time to time update a document entitled *System for Rating Proposed Capital Construction Projects* in order to determine the priorities for construction aid.
- 6119.2 The rating system for prioritizing proposed capital construction projects shall require consideration of projects according to objective criteria and a review of data submitted by school districts. The rating system shall include consideration of the following factors:
- (a) type of space requested;
 - (b) current space availability;
 - (c) current health and safety status;
 - (d) physical condition of the facility;
 - (e) impacts of maintenance on condition of facilities;
 - (f) short and long-range enrollment projections; and
 - (g) consolidation or union district formation
- 6119.3 The Commissioner shall notify in writing each district of its rating. A school district within 30 days of notification may appeal its rating in writing to the State Board of Education. The State Board of Education, after offering the school district the opportunity for a hearing, may affirm the rating of the Commissioner or, if there is substantial evidence to justify it, modify the rating accordingly.

6120 Preliminary Design Work and Cost Estimates

Upon notification of its rating status, a school district may submit to the Commissioner preliminary design work and a cost estimate for the proposed project.

6121 Educational Specifications

Plans and specifications for all construction aid projects for new school buildings, and alterations or additions to an existing school buildings shall be based on educational specifications approved by the Commissioner. The educational specifications shall incorporate the results of the facilities analysis required by Rule 6117 and enrollment projections for not less than five nor more than ten years beyond the anticipated completion of the work. Based on the results of the facilities analysis, the educational specifications shall provide information on each type of space and outdoor area to be included in the facilities of the school.

6122 Enrollment Projections

Enrollment projections to be incorporated in educational specifications for a construction aid project shall be based on and include: 1) a ten year history of enrollment by grade level of resident and tuition pupils within the district; 2) when available, live birth data for the district and other districts from which it regularly receives and will continue to receive tuition pupils, and 3) enrollment projections for not less than five nor more than ten years beyond the anticipated completion to the work.

6123 Construction Design

Plans and specifications for a construction aid project shall be prepared by a registered architect. Unless otherwise approved by the Commissioner and subject to state licensing requirements, plans for construction projects which do not impact or alter instructional areas shall be prepared by a registered architect or a registered professional engineer.

When appropriate, the Department of Education may request a review by the Department of Aging and Disabilities to assess the architectural accessibility of a proposed project.

6124 The Maximum Cost for State Participation

6124.1 The State Board of Education shall adopt and update annually a document entitled *Capital Outlay Financing Formula*. The capital outlay formula shall establish the maximum and minimum square footage parameters by school size, and grade range through a square footage allowance per student or program. The formula shall also establish an allowable cost per square foot of construction.

6124.2 The Commissioner shall determine the maximum eligible cost for construction aid for the proposed project using the information provided by the district and applying the Capital Outlay Formula. The cost and space parameters shall be fixed at the time the State Board approves the final application.

6125 Assigning a Priority to Projects

After all appeals under rule 6119.3 have been concluded, but in no case later than December 1 of each calendar year, the State Board of Education shall list in priority order those projects that have received preliminary approval from the Commissioner and voter approval. The State Board shall approve the priority

order of projects at its December meeting. The order of priority shall be as follows:

1. The State Board shall assign first priority to emergency projects which address threats to the health and safety of students and staff.
2. The Board shall assign second priority to voter approved construction projects in excess of \$10,000 which extend the useful life of the building but which do not make extensive additions or alterations to existing facilities to house or educate pupils.
3. All other voter approved projects shall receive a priority based on consideration of the relative degree of need as determined by *The System for Rating Proposed School Construction Projects* and 16 VSA § 3448(a)(2)(A) and (B).
4. By January 15th of the following year, the State Board of Education shall present the house and senate institutions committees with a list of projects in priority order with the estimated cost of each project.

6126 Approval of Final Application

6126.1 The State Board may approve the final application for a project that has:

- (a) received preliminary approval from the Commissioner;
- (b) received approval from the voters of the district for the total cost of the project either through the authorization of a bond or other funds;
- (c) made arrangements for project construction supervision by persons competent in building trades;
- (d) provided for financing of the construction project during a period prescribed by the State Board; and
- (e) otherwise met the requirements of sections 3447-3456 of Title 16 and these rules.

6126.2 In order to be eligible for construction aid, no construction shall begin before the State Board of Education approves the final application

6127 Final Application

A school district seeking construction shall file a final application on a form prescribed by the Commissioner that provides evidence of the following:

1. Approval of a preliminary application consistent with rule 6116.
2. A review by the Agency of Natural Resources of the water supply and sewage disposal conditions at the existing site that the board is considering.
3. Approval of the educational specifications by the Commissioner of Education
4. Completion of the preliminary design work for the project by a registered architect or engineer as appropriate
5. A determination of the maximum eligible cost for state capital construction aid by the Department of Education for the proposed project
6. A successful vote consistent with Title 24 V.S.A. §1758(b) for financing 100% of the cost of the project.
7. Financing of the project and a system of cost accounting for the project separate from the accounting system for the district.
8. Final plans. The school shall submit to the Commissioner copies of the construction plans either in computer aided design (CAD) format, if used, or, if not, in the form submitted by the architect or engineer to the school board or board of trustees.
9. Compliance with public bidding procedures consistent with 16 V.S.A. §559 and Rules 6300-6400.
10. Employ a clerk-of-the-works to oversee the completion of the project. The clerk-of-the-works may not be a current employee or, without the approval of the Commissioner, a former employee of the district, or the contractor, construction manager, architect or engineer for the project.
11. Adequate builder's risk insurance and professional liability insurance.
12. Unless otherwise permitted by the Commissioner, a performance bond or irrevocable letter of credit equal to or exceeding the

amount of the construction contract for the project covering the contractor or construction manager.

13. Approval from any governmental agency or authority with rules that affect school construction and from which approval is required.
14. Other information deemed necessary by the State Board for the type of construction aid project.

6128 Commencing Construction

When the Department of Education has received a completed application and all necessary exhibits as required, the Commissioner shall notify the school board and give authorization to commence construction pending approval of the application by the State Board at its next meeting

6129 Emergency Aid Approval

6129.1 A school board seeking emergency aid under this section shall make application on a form prescribed by the Commissioner. The application shall contain:

- (a) information on how the project will be funded;
- (b)
 - (i) a detailed description of the nature and extent of the imminent health and safety hazards that exist, and the extent they would be alleviated by the project, and
 - (ii) certification by an independent and qualified authority that an imminent health and safety hazard exists to the building's occupants unless the emergency work is completed; and
- (c) the estimated cost of the emergency construction with documentation where feasible by two or more independent qualified cost estimators;

6129.2 Upon determination that such emergency exists and can be corrected in a manner consistent with the construction proposed in the application, the Commissioner may award such funds as are permitted under 16 V.S.A. §3448(d).

6130 During Construction

A set of the approved plans and specifications shall be kept at the construction site throughout construction. Changes from the approved plans or specifications for a construction aid project relating to any state requirements, shall not be incorporated into the project without prior approval of the appropriate state agencies which have approved the plans and specifications.

All change orders during construction that increase or decrease the scope of the project as approved by the State Board of Education shall be submitted to the Commissioner. The Commissioner may approve all or a portion of the change orders for eligibility for school construction aid.

6131 Indoor Air Quality

The school board shall adopt a plan which addresses indoor air quality during all phases of construction. This may include, but is not limited to, temporary modifications to the existing ventilation system and provisions for the containment and proper exhaust of job-site pollutants, including dust, and volatile organic compounds (VOC's). Wherever practicable, the plans shall specify a minimum of one week following the completion of construction before occupancy to allow off-gassing. The plans and specifications shall also provide for commissioning of the ventilation system in accordance with the requirements of Rule 6143.4 herein.

6132 Completion of Construction:

Upon completion of a project the builder shall furnish to the school board a full set of plans and specifications for the project as built.

6133 Awarding of Construction Aid

6133.1 First Award

Upon satisfactory evidence that a project approved under these rules is under construction and upon appropriation by the general assembly of funds sufficient to fund the state aid due under Title 16 VSA §3448, the State Board shall certify an award for the project to the commissioner of finance and management who shall issue a warrant for the payment of one-half of the award. If no funds were available for a first award and if the approved project has been completed, the State Board shall certify an entire award upon completion of an inspection as outlined below and a final audit of expenditures.

6133.2 Final Award

In order for the school district to receive its final award, the school board shall:

1. Notify the Commissioner in writing when the project is completed and request a final state agency inspection of the work. The following or their designees shall be present at the final inspection: architect, superintendent, general contractor, a member of the school board and clerk-of-the-works.
2. Notify the Commissioner when all changes and additions listed at the final inspection have been made and the project is complete.
3. Submit a final Heating Ventilation and Air Conditioning (HVAC) Commissioning report certifying compliance with minimum requirements specified in Rule 6143.4 and with all other provisions of the HVAC commissioning plan for the project.
4. Notify the Commissioner that the project is ready for audit when canceled checks and invoices for all project costs are returned.

6134 Costs Eligible for Construction Aid

1. Emergency projects costs required to address imminent threats to safety and health of students or employees for which construction is necessary
2. Fees for permits, clerk-of-the-works, legal, architectural and engineering services
3. Razing existing on-site structures
4. Installation of utilities and associated costs either on-site or where legal right-of-way is obtained by the school district, including grading, drainage facilities, power plants, sewer, water, wells and pumps, waste treatment, electricity, roads, walks, parking areas and lighting
5. Athletic fields and other site development projects necessary to provide exterior facilities to carry out an approved educational program
6. Landscaping incidental to the construction

7. Construction to meet state agency regulations, including but not limited to fire and safety, environmental, and VOSHA
8. Roof replacement if:
 - (a) it is a structural improvement which will extend the life of the building, or
 - (b) the roof has exceeded its life expectancy and will be completely replaced and upgraded
9. School building construction or purchase, and extensive additions, alterations and renovations to existing schools consistent with 16 V.S.A. §3448(a)(2)(A)
10. Fixed equipment approved by the Commissioner

6135 Partially Eligible Costs

1. Swimming pools, skating rinks, theaters, and other structures with valid education functions but primarily programmed for community use and/or revenue production are to be counted into the total space allowances eligible for construction aid at a percentage which is the ratio of educational use to total use; such percentage to be determined in each case by the Commissioner. Auxiliary spaces, such as locker rooms, changing rooms, spectator areas and mechanical equipment areas may be included as partially eligible costs.
2. School construction on land or buildings which are part of a permanent deeded easement or right-of-way is eligible for state participation as a partially eligible cost at a percentage to be determined by the Commissioner.

6136 Non-eligible Costs

1. Structures or spaces designed exclusively for use of other agencies or services such as community centers, town offices, or civil defense shelters
2. Repair or maintenance projects that do not amount to extensive additions, alterations or renovations
3. Stadiums
4. School furniture, computers, computer hardware, cleaning equipment and supplies
5. Interest on bonding or short term borrowing

6. Time spent on the construction project by school board members or employees of the district
7. Deferred Maintenance. No state construction aid shall be available for any proposed project which has arisen in whole or in part from significant deferred maintenance. For the purpose of this section, “deferred maintenance” means the lack of reasonable and timely maintenance including periodic minor repairs of school buildings and mechanical systems.
8. Office space for supervisory union personnel, including but not limited to, space for the superintendents of schools, business managers, special education coordinators, curriculum coordinators or their staff.
9. All costs associated with land acquisition.

6137 Questionable Costs of Spaces

1. Costs or spaces not falling clearly within the list of eligible or partially eligible costs or spaces and not specifically excluded as non-eligible shall be submitted to the Commissioner for status determination prior to project commencement, or shall automatically be considered as not eligible for construction aid.
2. Districts aggrieved by the decision of the Commissioner regarding eligible costs may appeal to the State Board of Education. The State Board after opportunity for hearing may affirm, modify or reverse the decision of the Commissioner.

6138 Minimum Requirements

If one or more of the items set forth in Rule 6139 are included in the proposed construction aid project, the minimum requirements set forth therein shall apply by grade range for program and service areas as outlined in the capital outlay formula. All student counts are calculated on the basis of the approved enrollment projection for the intended use of the space as set forth in the educational specifications unless otherwise indicated.

6139 Minimum Requirements and Specific Program Space Needs

- 6139.1 General purpose classrooms: Classrooms shall be suited to the teaching strategies employed. There shall be effective acoustical separation between teaching stations so that learning activities in one area do not distract from learning activities in another. Storage spaces shall be provided and appropriately designed for their intended purposes. The ceiling height shall be 8 feet except where other wise required for the intended use of the room. Ceiling height

shall be measured from the floor to the lowest projection from the ceiling, not including instructional apparatus.

- 6139.2 Kindergarten/early education: Classrooms shall include space for large and small group work; for gross-motor physical activity; for activity with learning materials; for quiet reading; and for accessible storage of learning materials.
- 6139.3 .Early Education: Rooms for education of children prior to legal school age may be incorporated in a construction aid project and must be aligned with the Early Childhood Program Regulations established by the Child Care Division of the Agency of Human Services' Social and Rehabilitation Services.
- 6139.4 Visual art rooms, combined art and music rooms:
Work space including teacher preparation space with directly accessible storage shall be provided for the school's curricula in the arts. If flammable materials are used, the space shall be furnished with a fire extinguisher, a fire blanket, and separately vented storage. If the preparation space is used for any activity which may cause the production of hazardous vapors, it shall be furnished with a mechanical system for exhausting such vapors directly to atmosphere.
- 6139.5 Technology Education and Family and Consumer Sciences:
Instructional and storage spaces shall be appropriately designed for their intended purposes as determined by the school's curricula.
- 6139.6 Libraries: There shall be sufficient space for furniture for circulation materials and catalogues, and spaces for audiovisual use and small group work. There shall be access to telephone, work space and clean up facilities and storage of library supplies.
- 6139.7 Gymnasium: For middle or junior high school, floor space shall be a minimum of 42 ft. x 74 ft. For high schools, floor space shall be a minimum of 50 ft. x 84 ft. In addition, at least 3 feet of unobstructed space outside the boundaries of the designated activity area shall be provided. In new construction a separate and directly accessible storeroom shall be provided for physical education equipment and other portable furnishings used. The ceiling height shall be determined by the activities described in the educational specifications. Minimum ceiling height for a gymnasium shall be 22 feet.
- 6139.8 Science laboratories: There shall be a sufficient number of classrooms to support the described program of studies each with

learning stations equaling the number of students intended to occupy these spaces. Learning stations shall include gas, water and electricity as required by the curriculum. The space shall include facilities to wash chemical spills from the eyes and body, lockable storage and display space, and a separate vented chemical storage area.

- 6139.9 Project Rooms or Small Group Activity Rooms:
Such rooms shall be appropriate for the anticipated activities and conveniently located to the larger instructional areas. There shall be effective acoustical separation, and appropriate storage areas.
- 6139.10 Computer Labs: The number of computer stations shall be sufficient to accommodate the anticipated class size. There shall be adequate lighting, ventilation and storage areas.
- 6139.11 Multipurpose Rooms: Accessible storage areas shall be provided for all programs using the space for instructional purposes, and acoustical separation shall be provided from other teaching stations or classrooms. The ceiling height for a multi-purpose room shall be 12 feet.
- 6139.12 Maintenance and Janitorial Storage: Appropriate accessible space for storage of supplies and materials shall be provided as well as clean up facilities with availability of hot water.
- 6139.13 Special Services: Resource rooms and individual instructional areas shall be provided with appropriate ventilation, lighting and acoustic separation.
- 6139.14 Places of Assembly: Any room to be used for assembly purposes or larger group meetings shall be provided with appropriate acoustics so that speech may be heard clearly throughout the room.
- 6139.15 Food Service
 - 6139.15.1 Kitchen space for the preparation of meals for on site production only shall include areas for food preparation, serving, dishwashing, receiving and storage as determined for the intended use of the space. The kitchen area shall include appropriate space for storage of brooms and cleaning supplies as well as a separate area for the staff to use for clean up.

- 6139.15.2 Storage space intended for storage of perishable items not requiring refrigeration shall be designed so that the temperature within the space will not be heated above 60 degrees Fahrenheit or fall below freezing at any time.

6140 Lighting

In all classrooms or other areas where instruction routinely takes place, the artificial illumination installed as part of a school construction project shall be capable of providing work surfaces with at least 50 foot candles of light, without significant glare, except where the intended use of the area requires a higher level of illumination. Illumination guidelines for special applications or other areas shall be as described by Ninth Edition Illuminating Engineering Society of North America Lighting Handbook.

6141 Toilets, Hand Washing Facilities and Drinking Fountains

Installation of toilets, hand washing facilities and drinking fountains as part of a school construction project shall comply with the rules adopted by the Plumbers Examining Board in accordance with 26 V.S.A. § 2173, and requirements of the Department of Labor and Industry. Public toilets shall be provided in any part of the building to be used by the public.

6142 Energy Efficiency Standard

Equipment, design, and performance aspects of the proposed construction or improvement and all related systems shall meet or exceed the American Society of Heating, Refrigeration, and Air Conditioning Engineers (ASHRAE) Standard ASHRAE/IES 90.1-1989; Energy Efficient Design of New Buildings.

6143 Ventilation

- 6143.1 Ventilation design for all new schools and additions for which construction aid is sought, including modular or relocatable units, shall comply with minimum standards specified in ASHRAE 62-1989.

In addition, ASHRAE 62-1989 shall apply to any renovations of existing building in which the airflow is being altered as a result of:

- (a) a new heating system or new heating plant;
- (b) new HVAC controls;

- (c) substantial reconfiguration of interior partitions; or
- (d) treatment of any portion of an existing ventilation system, including but not limited to replacement, or upgrades.

6143.2 Where required under Rule 6143 compliance with ASHRAE 62-1989 shall be required throughout all renovated sections of the school, in addition to any other sections where the ventilation system is affected directly or indirectly by components located within the renovated area.

6143.3 Project specifications for all new construction, additions, or renovations shall include a building commissioning plan. At a minimum, the building commissioning plan shall identify a process for verifying the performance of the new or modified HVAC system(s) in accordance with approved project specifications.

6143.4 The HVAC commissioning plan shall clearly specify the procedure for verification of system performance, and shall require certification by a registered engineer.

HVAC commissioning shall include but not be limited to comprehensive testing of the equipment and controls in all operating modes. An air balance report shall be prepared by a qualified professional, and shall be utilized by the commissioning agent in assessing system performance. Prior to the release of state funds, the school board shall submit to the Commissioner a final HVAC commissioning report, certifying that all HVAC equipment and controls were installed as specified, that the system is operating according to manufacturer's and project specifications, and that all controls are properly programmed. Bid specifications shall provide for the contractor to give school building management personnel appropriate training, operating manuals for HVAC components, and relevant information concerning equipment specifications, operations, maintenance schedules and routines.

6144 Finishes

The walls, ceilings and floors of a school shall be finished with easily cleanable surfaces in all occupied parts of the building. Finishes for all occupied areas shall use materials that emit as few VOC's as possible. The school board shall allow sufficient time prior to occupancy for curing of finishes and off gassing of potential pollutants.

6145 Energy Retrofit Projects Eligibility for State Aid, Definition

“Energy retrofit projects” include any improvements undertaken primarily to address excessive energy use or cost resulting from the design characteristics of the building. Such projects may include but are not limited to lighting retrofits, heat recovery, fuel conversions, HVAC systems & controls, and thermal shell improvements.

6145.1 Cost Effectiveness

Only those projects which have completed a life cycle cost analysis and demonstrate energy savings shall be eligible for construction aid. The life cycle cost analysis shall utilize the estimated total project costs. The life cycle cost analysis shall be for a period of time equal to the anticipated life of the proposed improvement. Life cycle cost means the present value purchase price of an item, plus the replacement cost, plus or minus the salvage value, plus the present value of operation and maintenance cost.

Only those projects that are identified as being energy cost-effective as determined by a registered professional engineer or certified architect, shall be eligible for construction aid. A statement from the engineer or architect shall accompany the school building aid application.

6200 Variance

6201 On written request of a school board, the State Board of Education may approve the use of an alternative specification or procedure for a proposed construction aid project for any requirement of these rules when it finds that the intent of the rule can be met by the alternative.

6202 No alternative to these rules may be approved under Rule 6200 which would contravene any Vermont state or federal law or regulation other than these rules.

6203 The school board shall submit the following when requesting a variance:

- 1) Evidence that strict compliance with these rules could entail practical difficulty, unnecessary cost or, hardships or is otherwise unwarranted.
- 2) Evidence that the alternative specification or procedure meets the intent of the rule.

6204 The State Board after opportunity for hearing shall grant, deny or modify the request for a variance stating its reasons therefor and any conditions attached thereto. The Commissioner shall notify the applicant in writing of the action of the State Board.

6300 General Rules For Pre-qualification Of Bidders On Contracts Over \$500,000

6310 Statutory Authority: 16 V.S.A. 559(b)

6320 Policy And Procedure

To ensure that school construction projects are bid through a fair and open process and bids are received from responsible and qualified contractors.

6330 Cross References

State Board Rules: 6000 Series - School Construction and 9000 Series Public Bids

6340 Pre-qualification Procedures

A school board shall determine which contractors are eligible to bid on school construction contracts in excess of \$500,000. For the purpose of these rules an award to a general contractor shall constitute one contract. The prequalification procedures are as follows:

1. The board shall establish prequalification criteria for the contract in question.
2. The board shall publicly advertise at least 60 days prior to proposed bid opening that it has established prequalification criteria a bidder must meet and that it is seeking interested bidders to apply for prequalification.
3. The advertisement shall include:
 - (a) A brief description of the project for which the contract will be bid
 - (b) When bids are anticipated to be opened.
 - (c) When and where prequalification statements are to be received.
 - (d) Notice that prequalification statements are to be submitted on the AIA - A305 1986 forms or most recently amended form

AIA-A305, with attachments thereto, if necessary, to respond to additional pre-qualification criteria established by the board.

6341 Determination Of Pre-qualification

The school board shall review each applicants ability to perform the work required and shall prequalify an applicant if the board finds that the applicant:

- (a) maintains a clear and stable organizational structure;
- (b) holds licenses and/or registrations appropriate to the work to be performed;
- (c) has sufficient experience or expertise with related projects;
- (d) has sufficient financial capacity;
- (e) does not maintain a current construction load that would interfere with its ability to perform the work;
- (f) has positive references from credible and knowledgeable sources; and
- (g) meets any other lawful criteria established by the school board specific to the qualifications of the contractor to perform the work required in a timely and adequate manner.

6342 Notice To Applicants

6342.1 After determining which applicants are prequalified, the school board shall notify all applicants of whether they are eligible to bid on the contract. The notice shall be in writing and shall be issued at least 30 days prior to the proposed bid opening.

6342.2 The notice sent to applicants determined to be eligible to bid on the contract shall also contain information on the availability of plans and specifications and when and how bids are to be submitted.

6400 Construction Management

6410 Statutory Authority: 16 V.S.A. §559(d)

6420 Policy And Purpose

To ensure that school construction projects using a construction management approach are bid through a fair and open process.

6430 Definitions

“Construction manager” means, for the purpose of these rules, a person or entity providing some or all of the following services for a fee to a school board throughout a school construction process:

- (a) general advice;
- (b) value engineering;
- (c) project scheduling;
- (d) cost estimating;
- (e) project management; and
- (f) document preparation, including bids and contracts.

“Construction management” means, for the purposes of these rules, the services provided by a construction manager.

6440 Bidding For Construction Management Contracts

Contracts for construction management, except as provided in rule 6441, are not subject to the terms of 16 V.S.A. §559. However, nothing herein shall be construed to prohibit a school board from placing a contract for construction management out to bid.

6441 Construction Management/Constructor

When the school board wishes to offer a contract for construction management where the construction manager also serves as the constructor, a school board shall comply with the pre-qualification and bidding procedures contained in 16 V.S.A. §559. For the purpose of these rules a “constructor” means a person or entity which assumes a contractual obligation in exchange for a guaranteed price for the labor and materials for a school construction project.

6450 Pre-qualification Procedures

Construction management contracts subject to Rule 6441 above, shall meet the pre-qualification requirements of Rules 6340.

6460 Request For Construction Management Proposals

Upon completion of the prequalification process pursuant to Rule 6340, the school board shall submit to the prequalified construction managers a request for proposals that requests the following information:

1. a list and description of services to be provided;
2. resumes of key personnel;
3. a fixed fee for construction management services with a list and detailed breakdown of each item;
4. a fixed fee for construction services to cover overhead and profit; and
5. a fixed fee for general conditions with a list and detailed description of each item Nothing herein shall prohibit a school board from requesting proposals that include a percentage fee.

Nothing herein shall prohibit a school board from requesting proposals that include a percentage fee.

6470 Bid Process For Construction Manager

The school board shall adhere to the requirements of 16 V.S.A. §559 when awarding a contract pursuant to Rule 6441 to a construction manager.

6471 Bid Openings

Opening and evaluation of all bids for construction management, shall be conducted at a warned school board meeting.

6480 Bid Process Under Construction Management

Where a school board has contracted with a construction manager, the board remains responsible for public bidding pursuant to 16 V.S.A., §559 for all purchases or contracts exceeding \$10,000 for school building construction, improvements, materials, supplies, equipment. All bids shall be opened and reviewed at a warned school board meeting.

6490 Miscellaneous Provisions

6490.1 The school board and construction manager may enter into a preconstruction agreement which establishes a Guaranteed Maximum Price (GMP) at the time working drawings and specifications are sufficiently complete.

If the cumulative result of the bidding process for the total scope of the project plus general conditions, and fixed fees is less than the GMP, 100% of the savings will be returned to the local school board. If when bids are received and the project cost exceeds the GMP, the school board may:

1. reject any and all bids and solicit new bids for any portion of the work to be done unless otherwise provided by 16 V.S.A. §559;
2. renegotiate the GMP; or
3. require performance under the GMP agreement.

6490.2 No labor or cost related to the services to be performed by the construction manager shall be included in the subcontractor or material suppliers bid packages.